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1 AMENDMENT TO SENATE BILL 1648

2 AMENDMENT NO. _____. Amend Senate Bill 1648 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Procurement Code is amended by
5 adding Article 33 as follows:

6 (30 ILCS 500/Art. 33 heading new)

7 ARTICLE 33. CONSTRUCTION MANAGEMENT SERVICES

8 (30 ILCS 500/33-5 new)

9 Sec. 33-5. Definitions. In this Article:

10 "Construction management services" includes:

- 11 (1) services provided in the planning and
- 12 pre-construction phases of a construction project
- 13 including, but not limited to, consulting with, advising,
- 14 assisting, and making recommendations to the State agency
- 15 and architect, engineer, or licensed land surveyor on all
- 16 aspects of planning for project construction; reviewing
- 17 all plans and specifications as they are being developed
- 18 and making recommendations with respect to construction
- 19 feasibility, availability of material and labor, time
- 20 requirements for procurement and construction, and
- 21 projected costs; making, reviewing, and refining budget
- 22 estimates based on the State agency's program and other
- 23 available information; making recommendations to the State

1 agency and the architect or engineer regarding the division
2 of work in the plans and specifications to facilitate the
3 bidding and awarding of contracts; soliciting the interest
4 of capable contractors and taking bids on the project;
5 analyzing the bids received; and preparing and maintaining
6 a progress schedule during the design phase of the project
7 and preparation of a proposed construction schedule; and

8 (2) services provided in the construction phase of the
9 project including, but not limited to, maintaining
10 competent supervisory staff to coordinate and provide
11 general direction of the work and progress of the
12 contractors on the project; directing the work as it is
13 being performed for general conformance with working
14 drawings and specifications; establishing procedures for
15 coordinating among the State agency, architect or
16 engineer, contractors, and construction manager with
17 respect to all aspects of the project and implementing
18 those procedures; maintaining job site records and making
19 appropriate progress reports; implementing labor policy in
20 conformance with the requirements of the public owner;
21 reviewing the safety and equal opportunity programs of each
22 contractor for conformance with the public owner's policy
23 and making recommendations; reviewing and processing all
24 applications for payment by involved contractors and
25 material suppliers in accordance with the terms of the
26 contract; making recommendations and processing requests
27 for changes in the work and maintaining records of change
28 orders; scheduling and conducting job meetings to ensure
29 orderly progress of the work; developing and monitoring a
30 project progress schedule, coordinating and expediting the
31 work of all contractors and providing periodic status
32 reports to the owner and the architect or engineer; and
33 establishing and maintaining a cost control system and
34 conducting meetings to review costs.

1 "Construction manager" means any individual, sole
2 proprietorship, firm, partnership, corporation, or other legal
3 entity providing construction management services for a State
4 agency and prequalified by the State of Illinois in accordance
5 with 30 ILCS 500/33-10.

6 (30 ILCS 500/33-10 new)

7 Sec. 33-10. Prequalification. A State agency shall
8 establish procedures to prequalify firms seeking to provide
9 construction management services or may use prequalification
10 lists from other State agencies to meet the requirements of
11 this Section.

12 (30 ILCS 500/33-15 new)

13 Sec. 33-15. Public notice. Whenever a project requiring
14 construction management services is proposed for a State
15 agency, the State agency shall provide no less than a 14-day
16 advance notice published in a request for proposals setting
17 forth the projects and services to be procured. The request for
18 proposals shall be mailed to each firm that is prequalified
19 under Section 33-10. The request for proposals shall include a
20 description of each project and shall state the time and place
21 for interested firms to submit a letter of interest and, if
22 required by the request for proposals, a statement of
23 qualifications.

24 (30 ILCS 500/33-20 new)

25 Sec. 33-20. Evaluation procedure. A State agency shall
26 evaluate the construction managers submitting letters of
27 interest and other prequalified construction managers, taking
28 into account qualifications; and the State agency may consider,
29 but shall not be limited to considering, ability of personnel,
30 past record and experience, performance data on file,
31 willingness to meet time requirements, location, workload of

1 the construction manager, and any other qualifications-based
2 factors as the State agency may determine in writing are
3 applicable. The State agency may conduct discussions with and
4 require public presentations by construction managers deemed
5 to be the most qualified regarding their qualifications,
6 approach to the project, and ability to furnish the required
7 services.

8 A State agency shall establish a committee to select
9 construction managers to provide construction management
10 services. A selection committee may include at least one public
11 member. The public member may not be employed or associated
12 with any firm holding a contract with the State agency nor may
13 the public member's firm be considered for a contract with that
14 State agency while he or she is serving as a public member of
15 the committee.

16 In no case shall a State agency, prior to selecting a
17 construction manager for negotiation under Section 33-30, seek
18 formal or informal submission of verbal or written estimates of
19 costs or proposals in terms of dollars, hours required,
20 percentage of construction cost, or any other measure of
21 compensation.

22 (30 ILCS 500/33-25 new)

23 Sec. 33-25. Selection Procedure. On the basis of
24 evaluations, discussions, and any presentations, the State
25 agency shall select no less than 3 firms it determines to be
26 qualified to provide services for the project and rank them in
27 order of qualifications to provide services regarding the
28 specific project. The State agency shall then contract at a
29 fair and reasonable compensation. If fewer than 3 firms submit
30 letters of interest and the State agency determines that one or
31 both of those firms are so qualified, the State agency may
32 proceed to negotiate a contract under Section 33-30. The
33 decision of the State agency shall be final and binding.

1 (30 ILCS 500/33-30 new)

2 Sec. 33-30. Contract Negotiation.

3 (a) The State agency shall prepare a written description of
4 the scope of the proposed services to be used as a basis for
5 negotiations and shall negotiate a contract with the highest
6 ranked construction management firm at compensation that the
7 State agency determines in writing to be fair and reasonable.
8 In making this decision, the State agency shall take into
9 account the estimated value, scope, complexity, and nature of
10 the services to be rendered. In no case may a State agency
11 establish a payment formula designed to eliminate firms from
12 contention or restrict competition or negotiation of fees.

13 (b) If the State agency is unable to negotiate a
14 satisfactory contract with the firm that is highest ranked,
15 negotiations with that firm shall be terminated. The State
16 agency shall then begin negotiations with the firm that is next
17 highest ranked. If the State agency is unable to negotiate a
18 satisfactory contract with that firm, negotiations with that
19 firm shall be terminated. The State agency shall then begin
20 negotiations with the firm that is next highest ranked.

21 (c) If the State agency is unable to negotiate a
22 satisfactory contract with any of the selected firms, the State
23 agency shall re-evaluate the construction management services
24 requested, including the estimated value, scope, complexity,
25 and fee requirements. The State agency shall then compile a
26 list of not less than 3 prequalified firms and proceed in
27 accordance with the provisions of this Act.

28 (30 ILCS 500/33-35 new)

29 Sec. 33-35. Small Contracts. The provisions of Sections
30 33-20, 33-25, and 33-30 do not apply to construction management
31 contracts of less than \$25,000.

1 (30 ILCS 500/33-40 new)

2 Sec. 33-40. Emergency services. Sections 33-20, 33-25, and
3 33-30 do not apply in the procurement of construction
4 management services by State agencies (i) when an agency
5 determines in writing that it is in the best interest of the
6 State to proceed with the immediate selection of a firm or (ii)
7 in emergencies when immediate services are necessary to protect
8 the public health and safety, including, but not limited to,
9 earthquake, tornado, storm, or natural or man-made disaster.

10 (30 ILCS 500/33-45 new)

11 Sec. 33-45. Firm performance evaluation. Each State agency
12 shall evaluate the performance of each firm upon completion of
13 a contract. That evaluation shall be made available to the firm
14 and the firm may submit a written response, with the evaluation
15 and response retained solely by the agency. The evaluation and
16 response shall not be made available to any other person or
17 firm and is exempt from disclosure under the Freedom of
18 Information Act. The evaluation shall be based on the terms
19 identified in the construction manager's contract.

20 (30 ILCS 500/33-50 new)

21 Sec. 33-50. Duties of construction manager; additional
22 requirements for persons performing construction work.

23 (a) Upon the award of a construction management services
24 contract, a construction manager must contract with the State
25 agency to furnish his or her skill and judgment in cooperation
26 with, and reliance upon, the services of the project architect
27 or engineer. The construction manager must furnish business
28 administration, management of the construction process, and
29 other specified services to the State agency and must perform
30 his or her obligations in an expeditious and economical manner
31 consistent with the interest of the State agency. If it is in
32 the State's best interest, the construction manager may provide

1 or perform basic services for which reimbursement is provided
2 in the general conditions to the construction management
3 services contract.

4 (b) The actual construction work on the project must be
5 awarded to contractors under this Code. The Capital Development
6 Board may further separate additional divisions of work under
7 this Article. This subsection is subject to the applicable
8 provisions of the following Acts:

9 (1) the Prevailing Wage Act;

10 (2) the Public Construction Bond Act;

11 (3) the Public Works Employment Discrimination Act;

12 (4) the Public Works Preference Act;

13 (5) the Employment of Illinois Workers on Public Works
14 Act;

15 (6) the Public Contract Fraud Act;

16 (7) the Illinois Construction Evaluation Act; and

17 (8) the Illinois Architecture Practice Act of 1989, the
18 Professional Engineering Practice Act of 1989, the
19 Illinois Professional Land Surveyor Act of 1989, and the
20 Structural Engineering Practice Act of 1989.

21 (30 ILCS 500/33-55 new)

22 Sec. 33-55. Prohibited conduct. No construction
23 management services contract may be awarded by a State agency
24 on a negotiated basis as provided in this Article if the
25 construction manager or an entity that controls, is controlled
26 by, or shares common ownership or control with the construction
27 manager (i) guarantees, warrants, or otherwise assumes
28 financial responsibility for the work of others on the project;
29 (ii) provides the State agency with a guaranteed maximum price
30 for the work of others on the project; or (iii) furnishes or
31 guarantees a performance or payment bond for other contractors
32 on the project. In any such case, the contract for construction
33 management services must be let by competitive bidding as in

1 the case of contracts for construction work.

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.".